

ENTERED

February 16, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

DIONISIO BALDERAS MORENO,

Plaintiff,

VS.

MCGUFFIN, *et al*,

Defendants.

§
§
§
§
§
§
§
§

CIVIL NO. 2:16-CV-37

ORDER

The Court has before it Plaintiff's Complaint, the Amended Memorandum and Recommendation ("M&R") of the Magistrate Judge to whom this case was referred (Dkt. No. 26), and Plaintiff's Objections to the M&R (Dkt. No. 21).

Plaintiff primarily objects that the Magistrate Judge recommends dismissal of the above-captioned case but does not address Plaintiff's related case, Case No. 2:16-cv-86. Dkt. No. 21 at 1. The Magistrate Judge consolidated this case and Case No. 2:16-cv-86 on March 10, 2016, because the cases involve the same facts and causes of action. Dkt. No. 13. Both cases therefore have proceeded under the above-captioned Case No. 2:16-cv-37.

After independently reviewing the record and applicable law, the Court **ADOPTS** the Magistrate Judge's M&R (Dkt. No. 26). The Court **DISMISSES WITH PREJUDICE** the above-captioned action for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).¹ This dismissal counts as a strike for purposes of 28 U.S.C. § 1915(g), and the Court therefore **DIRECTS** the Clerk of the Court to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov.

¹ The Court likewise **DISMISSES** Plaintiff's related case, Case No. 2:16-cv-86. The Court will separately enter Final Judgment in that case.

Final Judgment will be entered separately in accordance with Federal Rule of Civil Procedure 58.

SIGNED this 16th day of February, 2018.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle
Senior United States District Judge